

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5-26-07

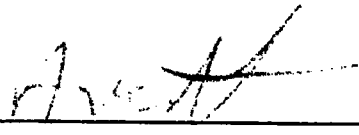
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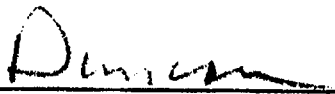
Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

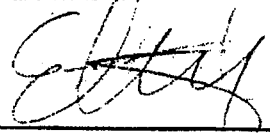
Sirs:

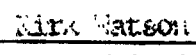
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SR 12 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

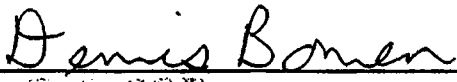

TIM AYOTTE

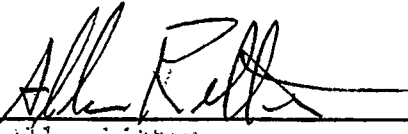

ROBERT DUNCAN



TIM BRYANT


KEVIN ELTIFE

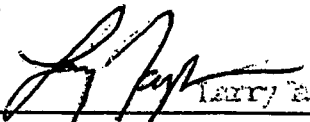

Kirk Watson
On the part of the Senate


DENNIS BONEN


Allen Ritter


KELLY


Joe Driver


Larry Taylor
On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 12

A BILL TO BE ENTITLED

AN ACT

relating to programs for the enhancement of air quality, including energy efficiency standards in state purchasing and energy consumption; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. LOW-INCOME VEHICLE REPAIR ASSISTANCE, RETROFIT, AND
ACCELERATED VEHICLE RETIREMENT PROGRAM

SECTION 1.01. Section 382.003, Health and Safety Code, is amended by adding Subdivisions (7-a), (9-a), and (10-a) to read as follows:

(7-a) "Hybrid motor vehicle" means a motor vehicle that draws propulsion energy from both gasoline or conventional diesel fuel and a rechargeable energy storage system.

(9-a) "Motor vehicle" means a fully self-propelled vehicle having four wheels that has as its primary purpose the transport of a person or persons, or property, on a public highway.

(10-a) "Qualifying motor vehicle" means a motor vehicle that meets the requirements of Section 382.210(b).

SECTION 1.02. Subsection (b), Section 382.0622, Health and Safety Code, is amended to read as follows:

(b) Except as provided by Subsection [~~Subsections~~] (b-1) [~~and~~

1 ~~(e)~~], Clean Air Act fees shall be deposited in the state treasury
2 to the credit of the clean air account and shall be used to
3 safeguard the air resources of the state.

4 SECTION 1.03. Section 382.209, Health and Safety Code, is
5 amended by amending Subsections (b), (e), and (g) and adding
6 Subsections (i) and (j) to read as follows:

7 (b) The commission shall provide funding for local low-income
8 vehicle repair assistance, retrofit, and accelerated vehicle
9 retirement programs with available funds collected under Section
10 382.202, 382.302, or other designated and available funds. The
11 programs shall be administered in accordance with Chapter 783,
12 Government Code. Program ~~[Programmatic]~~ costs may include call
13 center management, application oversight, invoice analysis,
14 education, outreach, and advertising. Not more than 10 percent of
15 the money provided to a local low-income vehicle repair assistance,
16 retrofit, and accelerated vehicle retirement program under this
17 section may be used for the administration of the programs,
18 including program costs.

19 (e) A vehicle is not eligible to participate in a low-income
20 vehicle repair assistance, retrofit, and accelerated vehicle
21 retirement program established under this section unless:

- 22 (1) the vehicle is capable of being operated;
- 23 (2) the registration of the vehicle:
 - 24 (A) is current; and
 - 25 (B) reflects that the vehicle has been registered

1 in the county implementing the program for the 12 months preceding
2 the application for participation in the program;

3 (3) the commissioners court of the county administering
4 the program determines that the vehicle meets the eligibility
5 criteria adopted by the commission, the Texas Department of
6 Transportation, and the Public Safety Commission; ~~[and]~~

7 (4) if the vehicle is to be repaired, the repair is done
8 by a repair facility recognized by the Department of Public Safety,
9 which may be an independent or private entity licensed by the
10 state; and

11 (5) if the vehicle is to be retired under this
12 subsection and Section 382.213, the replacement vehicle is a
13 qualifying motor vehicle.

14 (g) A participating county may contract with any appropriate
15 entity, including the regional council of governments or the
16 metropolitan planning organization in the appropriate region, or
17 with another county for services necessary to implement the
18 participating county's low-income vehicle repair assistance,
19 retrofit, and accelerated vehicle retirement program. The
20 participating counties in a nonattainment region or counties
21 participating in an early action compact under Subchapter H may
22 agree to have the money collected in any one county be used in any
23 other participating county in the same region. ~~[The participating~~
24 ~~counties may also agree to contract with any appropriate entity,~~
25 ~~including the regional metropolitan planning organization or~~

1 ~~council of governments, to implement a program under Section~~
2 ~~382.217.]~~

3 (i) Notwithstanding the vehicle replacement requirements
4 provided by Subsection (d)(2), the commission by rule may provide
5 monetary or other compensatory assistance under the low-income
6 vehicle repair assistance, retrofit, and accelerated vehicle
7 retirement program, subject to the availability of funds, for the
8 replacement of a vehicle that meets the following criteria:

9 (1) the vehicle is gasoline-powered and is at least 10
10 years old;

11 (2) the vehicle owner meets applicable financial
12 eligibility criteria;

13 (3) the vehicle meets the requirements provided by
14 Subsections (e)(1) and (2); and

15 (4) the vehicle has passed a Department of Public Safety
16 motor vehicle safety inspection or safety and emissions inspection
17 within the 15-month period before the application is submitted.

18 (j) The commission may provide monetary or other compensatory
19 assistance under the low-income vehicle repair assistance,
20 retrofit, and accelerated vehicle retirement program for a
21 replacement vehicle or replacement assistance for a pre-1996 model
22 year replacement vehicle that passes the required United States
23 Environmental Protection Agency Start-Up Acceleration Simulation
24 Mode Standards emissions test but that would have failed the United
25 States Environmental Protection Agency Final Acceleration

1 Simulation Mode Standards emissions test or failed to meet some
2 other criterion determined by the commission; provided, however,
3 that a replacement vehicle under this subsection must be a
4 qualifying motor vehicle.

5 SECTION 1.04. Section 382.210, Health and Safety Code, is
6 amended to read as follows:

7 Sec. 382.210. IMPLEMENTATION GUIDELINES AND REQUIREMENTS.

8 (a) The commission by rule shall adopt guidelines to assist a
9 participating county in implementing a low-income vehicle repair
10 assistance, retrofit, and accelerated vehicle retirement program
11 authorized under Section 382.209. The guidelines at a minimum
12 shall recommend:

13 (1) a minimum and maximum amount for repair assistance;
14 (2) a minimum and maximum amount toward the purchase
15 price of a replacement vehicle qualified for the accelerated
16 retirement program, based on vehicle type and model year, with the
17 maximum amount not to exceed:

18 (A) \$3,000 for a replacement car of the current
19 model year or the previous three model years, except as provided by
20 Paragraph (C);

21 (B) \$3,000 for a replacement truck of the current
22 model year or the previous two model years, except as provided by
23 Paragraph (C); and

24 (C) \$3,500 for a replacement hybrid vehicle of the
25 current model year or the previous model year;

(3) criteria for determining eligibility, taking into account:

(A) the vehicle owner's income, which may not exceed 300 percent of the federal poverty level;

(B) the fair market value of the vehicle; and

(C) any other relevant considerations;

(4) safeguards for preventing fraud in the repair, purchase, or sale of a vehicle in the program; and

(5) procedures for determining the degree and amount of repair assistance a vehicle is allowed, based on:

(A) the amount of money the vehicle owner has spent on repairs;

(B) the vehicle owner's income; and

(C) any other relevant factors.

(b) A replacement vehicle described by Subsection (a)(2) must:

(1) except as provided by Subsection (c), be a vehicle in a class or category of vehicles that has been certified to meet federal Tier 2, Bin 5 or a cleaner Bin certification under 40 C.F.R. Section 86.1811-04, as published in the February 10, 2000, Federal Register;

(2) have a gross vehicle weight rating of less than 10,000 pounds; and

(3) be a vehicle the total cost of which does not exceed \$25,000.

1 (c) The commission may adopt any revisions made by the
2 federal government to the emissions standards described by
3 Subsection (b)(1).

4 (d) A participating county shall provide an electronic means
5 for distributing vehicle repair or replacement funds once all
6 program criteria have been met with regard to the repair or
7 replacement. The county shall ensure that funds are transferred to
8 a participating dealer under this section not later than five
9 business days after the date the county receives proof of the sale
10 and any required administrative documents from the participating
11 dealer.

12 (e) In rules adopted under this section, the commission shall
13 require a mandatory procedure that:

14 (1) produces a document confirming that a person is
15 eligible to purchase a replacement vehicle in the manner provided
16 by this chapter, and the amount of money available to the
17 participating purchaser;

18 (2) provides that a person who seeks to purchase a
19 replacement vehicle in the manner provided by this chapter is
20 required to have the document required by Subdivision (1) before
21 the person enters into negotiation for a replacement vehicle in the
22 manner provided by this chapter; and

23 (3) provides that a participating dealer who relies on a
24 document issued as required by Subdivision (1) has no duty to
25 otherwise confirm the eligibility of a person to purchase a

1 replacement vehicle in the manner provided by this chapter.

2 (f) In this section, "total cost" means the total amount of
 3 money paid or to be paid for the purchase of a motor vehicle as set
 4 forth as "sales price" in the form entitled "Application for Texas
 5 Certificate of Title" promulgated by the Texas Department of
 6 Transportation. In a transaction that does not involve the use of
 7 that form, the term means an amount of money that is equivalent, or
 8 substantially equivalent, to the amount that would appear as "sales
 9 price" on the Application for Texas Certificate of Title if that
 10 form were involved.

11 SECTION 1.05. Section 382.213, Health and Safety Code, is
 12 amended by amending Subsection (a) and adding Subsections (d)
 13 through (i) to read as follows:

14 (a) Except as provided by Subsection (c) and Subdivision (5)
 15 of this subsection, a vehicle retired under an accelerated vehicle
 16 retirement program authorized by Section 382.209 may not be resold
 17 or reused in its entirety in this or another state. Subject to the
 18 provisions of Subsection (i), the automobile dealer who takes
 19 possession of the vehicle must submit to the program administrator
 20 proof, in a manner adopted by the commission, that the vehicle has
 21 been retired. The vehicle must be:

- 22 (1) destroyed;
- 23 (2) recycled;
- 24 (3) dismantled and its parts sold as used parts or used
- 25 in the program;

1 (4) placed in a storage facility of a program
2 established under Section 382.209 and subsequently destroyed,
3 recycled, or dismantled and its parts sold or used in the program;
4 or

5 (5) repaired, brought into compliance, and used as a
6 replacement vehicle under Section 382.209(d)(2).

7 (d) Notwithstanding Subsection (a)(3), the dismantler of a
8 vehicle shall scrap the emissions control equipment and engine.
9 The dismantler shall certify that the equipment and engine have
10 been scrapped and not resold into the marketplace. A person who
11 causes, suffers, allows, or permits a violation of this subsection
12 or of a rule adopted under this section is subject to a civil
13 penalty under Subchapter D, Chapter 7, Water Code, for each
14 violation. For purposes of this subsection, a separate violation
15 occurs with each fraudulent certification or prohibited resale.

16 (e) Notwithstanding Subsection (d), vehicle parts not related
17 to emissions control equipment or the engine may be resold in any
18 state. The only cost to be paid by a recycler for the residual
19 scrap metal of a vehicle retired under this section shall be the
20 cost of transportation of the residual scrap metal to the recycling
21 facility.

22 (f) Any dismantling of vehicles or salvaging of steel under
23 this section must be performed at a facility located in this state.

24 (g) In dismantling a vehicle under this section, the
25 dismantler shall remove any mercury switches in accordance with

1 state and federal law.

2 (h) For purposes of this section, the commission shall adopt
3 rules defining "emissions control equipment" and "engine."

4 (i) Notwithstanding any other provision of this section, and
5 except as provided by this subsection, a dealer is in compliance
6 with this section and incurs no civil or criminal liability as a
7 result of the disposal of a replaced vehicle if the dealer produces
8 proof of transfer of the replaced vehicle by the dealer to a
9 dismantler. The defense provided by this subsection is not
10 available to a dealer who knowingly and intentionally conspires
11 with another person to violate this section.

12 SECTION 1.06. Subchapter G, Chapter 382, Health and Safety
13 Code, is amended by adding Section 382.219 to read as follows:

14 Sec. 382.219. PURCHASE OF REPLACEMENT VEHICLE; AUTOMOBILE
15 DEALERSHIPS. (a) An amount described by Section 382.210(a)(2) may
16 be used as a down payment toward the purchase of a replacement
17 vehicle.

18 (b) An automobile dealer that participates in the procedures
19 and programs offered by this chapter must be located in the state.
20 No dealer is required to participate in the procedures and
21 programs provided by this chapter.

22 SECTION 1.07. Subchapter G, Chapter 382, Health and Safety
23 Code, is amended by adding Section 382.220 to read as follows:

24 Sec. 382.220. USE OF FUNDING FOR LOCAL INITIATIVE PROJECTS.

25 (a) Money that is made available to participating counties under

1 Section 382.202(g) or 382.302 may be appropriated only for programs
2 administered in accordance with Chapter 783, Government Code, to
3 improve air quality. A participating county may agree to contract
4 with any appropriate entity, including a metropolitan planning
5 organization or a council of governments to implement a program
6 under Section 382.202, 382.209, or this section.

7 (b) A program under this section must be implemented in
8 consultation with the commission and may include a program to:

9 (1) expand and enhance the AirCheck Texas Repair and
10 Replacement Assistance Program;

11 (2) develop and implement programs or systems that
12 remotely determine vehicle emissions and notify the vehicle's
13 operator;

14 (3) develop and implement projects to implement the
15 commission's smoking vehicle program;

16 (4) develop and implement projects for coordinating with
17 local law enforcement officials to reduce the use of counterfeit
18 state inspection stickers by providing local law enforcement
19 officials with funds to identify vehicles with counterfeit state
20 inspection stickers and to carry out appropriate actions;

21 (5) develop and implement programs to enhance
22 transportation system improvements; or

23 (6) develop and implement new air control strategies
24 designed to assist local areas in complying with state and federal
25 air quality rules and regulations.

1 (c) Money that is made available for the implementation of a
2 program under Subsection (b) may not be expended for call center
3 management, application oversight, invoice analysis, education,
4 outreach, or advertising purposes.

5 (d) Fees collected under Sections 382.202 and 382.302 may be
6 used, in an amount not to exceed \$5 million per fiscal year, for
7 projects described by Subsection (b). The fees shall be made
8 available only to counties participating in the low-income vehicle
9 repair assistance, retrofit, and accelerated vehicle retirement
10 programs created under Section 382.209 and only on a matching
11 basis, whereby the commission provides money to a county in the
12 same amount that the county dedicates to a project authorized by
13 Subsection (b).

14 SECTION 1.08. Subsection (b), Section 152.002, Tax Code, is
15 amended to read as follows:

16 (b) "Total consideration" does not include:

17 (1) a cash discount;

18 (2) a full cash or credit refund to a customer of the
19 sales price of a motor vehicle returned to the seller;

20 (3) the amount charged for labor or service rendered in
21 installing, applying, remodeling, or repairing the motor vehicle
22 sold;

23 (4) a financing, carrying, or service charge or interest
24 on credit extended on a motor vehicle sold under a conditional sale
25 or other deferred payment contract;

1 (5) the value of a motor vehicle taken by a seller as
2 all or a part of the consideration for sale of another motor
3 vehicle, including any cash payment to the buyer under Section
4 348.404, Finance Code;

5 (6) a charge for transportation of the motor vehicle
6 after a sale; ~~or~~

7 (7) motor vehicle inventory tax; or

8 (8) an amount made available to the customer under
9 Subchapter G, Chapter 382, Health and Safety Code.

10 SECTION 1.09. Section 7.102, Water Code, is amended to read
11 as follows:

12 Sec. 7.102. MAXIMUM PENALTY. A person who causes, suffers,
13 allows, or permits a violation of a statute, rule, order, or permit
14 relating to Chapter 37 of this code, Chapter 366, 371, or 372,
15 Health and Safety Code, Subchapter G, Chapter 382, Health and
16 Safety Code, or Chapter 1903, Occupations Code, shall be assessed
17 for each violation a civil penalty not less than \$50 nor greater
18 than \$5,000 for each day of each violation as the court or jury
19 considers proper. A person who causes, suffers, allows, or permits
20 a violation of a statute, rule, order, or permit relating to any
21 other matter within the commission's jurisdiction to enforce, other
22 than violations of Chapter 11, 12, 13, 16, or 36 of this code, or
23 Chapter 341, Health and Safety Code, shall be assessed for each
24 violation a civil penalty not less than \$50 nor greater than
25 \$25,000 for each day of each violation as the court or jury

1 considers proper. Each day of a continuing violation is a separate
2 violation.

3 SECTION 1.10. The following provisions of the Health and
4 Safety Code are repealed:

- 5 (1) Subsection (e), Section 382.0622;
6 (2) Subsections (q) and (r), Section 382.202; and
7 (3) Section 382.217.

8 SECTION 1.11. The Texas Commission on Environmental Quality
9 shall review its current cutpoint levels for nitrogen oxide
10 emissions and determine whether a lower cutpoint standard would
11 best serve the interest of the public health and welfare. The
12 determination shall be made by rule not later than January 1, 2008.

13 If the commission adopts a lower cutpoint standard, the commission
14 shall make the low-income vehicle repair assistance, retrofit, and
15 accelerated vehicle retirement program under Section 382.209,
16 Health and Safety Code, as amended by this article, available to
17 owners of vehicles that did not meet the prior, more stringent
18 standard.

19 SECTION 1.12. (a) The Texas Commission on Environmental
20 Quality shall seek to work in partnership with automobile
21 manufacturers and dealers in the state to increase public awareness
22 of and participation in the low-income vehicle repair assistance,
23 retrofit, and accelerated vehicle retirement program under Section
24 382.209, Health and Safety Code, as amended by this article.

25 (b) Funding for the partnership described by Subsection (a)

1 of this section shall be used exclusively for the purpose of
2 publicizing the program.

3 SECTION 1.13. (a) The Texas Commission on Environmental
4 Quality shall seek to work in partnership with the steel industry
5 and automobile dismantlers to ensure that vehicles being replaced
6 are scrapped and that proof of scrapping is provided to the
7 commission.

8 (b) Not later than January 1, 2008, the Texas Commission on
9 Environmental Quality shall adopt procedures for certifying that
10 emissions control equipment and vehicle engines have been scrapped
11 and not resold into the marketplace and shall by rule define
12 "emissions control equipment" and "engine," as required by Section
13 382.213, Health and Safety Code, as amended by this article.

14 ARTICLE 2. TEXAS EMISSIONS REDUCTION PLAN

15 SECTION 2.01. Section 386.002, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 386.002. EXPIRATION. This chapter expires August 31,
18 2013 [~~2010~~].

19 SECTION 2.02. Subsection (a), Section 386.052, Health and
20 Safety Code, is amended to read as follows:

21 (a) In administering the plan established under this chapter
22 and in accordance with the requirements of this chapter, the
23 commission:

24 (1) shall:

25 (A) [~~1~~] manage plan funds and oversee the plan;

1 (B) [~~+2~~] produce guidelines, protocols, and
2 criteria for eligible projects;

3 (C) [~~+3~~] develop methodologies for evaluating
4 project cost-effectiveness;

5 (D) [~~+4~~] prepare reports regarding the progress
6 and effectiveness of the plan; and

7 (E) [~~+5~~] take all appropriate and necessary
8 actions so that emissions reductions achieved through the plan are
9 credited by the United States Environmental Protection Agency to
10 the appropriate emissions reduction objectives in the state
11 implementation plan; and

12 (2) may hire staff and consultants needed to complete
13 the commission's duties under this section and ensure timely review
14 of applications and reimbursement of grant applicants' eligible
15 project costs.

16 SECTION 2.03. Subsection (d), Section 386.053, Health and
17 Safety Code, is amended to read as follows:

18 (d) The commission may propose revisions to the guidelines
19 and criteria adopted under this section as necessary to improve the
20 ability of the plan to achieve its goals. Revisions may include,
21 among other changes, adding additional pollutants, adding
22 stationary engines or engines used in stationary applications,
23 adding vehicles and equipment that use fuels other than diesel, or
24 adjusting eligible program categories, as appropriate, to ensure
25 that incentives established under this chapter achieve the maximum

1 possible emissions reductions. The commission shall make a
2 proposed revision available to the public before the 30th [~~45th~~]
3 day preceding the date of final adoption of the revision and shall
4 hold at least one public meeting to consider public comments on the
5 proposed revision before final adoption.

6 SECTION 2.04. Subsection (c), Section 386.104, Health and
7 Safety Code, is amended to read as follows:

8 (c) For a proposed project as described by Section
9 386.102(b), other than a project involving a marine vessel or
10 engine, not less than 75 percent of vehicle miles traveled or hours
11 of operation projected for the five years immediately following the
12 award of a grant must be projected to take place in a nonattainment
13 area or affected county of this state. The commission may also
14 allow vehicle travel on highways and roadways, or portions of a
15 highway or roadway, designated by the commission and located
16 outside a nonattainment area or affected county to count towards
17 the percentage of use requirement in this subsection. For a
18 proposed project involving a marine vessel or engine, the vessel or
19 engine must be operated in the intercoastal waterways or bays
20 adjacent to a nonattainment area or affected county of this state
21 for a sufficient amount of time over the lifetime of the project,
22 as determined by the commission, to meet the cost-effectiveness
23 requirements of Section 386.105.

24 SECTION 2.05. Subsection (a), Section 386.106, Health and
25 Safety Code, is amended to read as follows:

1 (a) Except as provided by Section 386.107 and except for
2 infrastructure projects and infrastructure purchases that are part
3 of a broader retrofit, repower, replacement, or add-on equipment
4 project, the commission may not award a grant for a proposed
5 project the cost-effectiveness of which, calculated in accordance
6 with Section 386.105 and criteria developed under that section,
7 exceeds \$15,000 [~~\$13,000~~] per ton of oxides of nitrogen emissions
8 reduced in the nonattainment area or affected county for which the
9 project is proposed. This subsection does not restrict commission
10 authority under other law to require emissions reductions with a
11 cost-effectiveness that exceeds \$15,000 [~~\$13,000~~] per ton.

12 SECTION 2.06. Section 386.109, Health and Safety Code, is
13 amended to read as follows:

14 Sec. 386.109. ELIGIBLE INFRASTRUCTURE PROJECTS. (a) The
15 commission may consider for funding under Section 386.108:

16 (1) the purchase and installation at a site of equipment
17 that is designed primarily to dispense qualifying fuel, other than
18 standard gasoline or diesel, or the purchase of on-site mobile
19 fueling equipment;

20 (2) infrastructure projects, including auxiliary power
21 units, designed to dispense electricity to:

22 (A) motor vehicles;

23 (B) [~~and~~] on-road and non-road diesels; and

24 (C) marine vessels; and

25 (3) a project that involves a technology that allows a

1 vehicle to replace with electric power, while the vehicle is
2 parked, the power normally supplied by the vehicle's internal
3 combustion engine.

4 (b) The commission may provide funding to other state
5 agencies to implement projects under Subsection (a)(3), including
6 funding for the lease, purchase, or installation of idle reduction
7 technologies and facilities at rest areas and other public
8 facilities on major highway transportation routes located in areas
9 eligible for funding or for marine vessels operating on water
10 routes eligible for funding. Funding under this subsection may
11 include reasonable operational costs determined by the commission
12 to be needed for the initial start-up and proper operation of the
13 idle reduction technologies. The state agency leasing, owning, or
14 operating the idle reduction facility constructed with funds
15 provided under this subsection may, but is not required to, charge
16 reasonable fees for the provision of idle reduction services
17 provided that those fees are used to directly offset the cost of
18 providing the services.

19 (c) In evaluating a request for funding of an eligible
20 infrastructure project, the commission shall encourage the use of a
21 technology that allows a vehicle to replace with electric power,
22 while the vehicle is parked, the power normally supplied by the
23 vehicle's internal combustion engine at the state's ports and
24 border crossings in affected areas.

25 SECTION 2.07. Section 386.117, Health and Safety Code, is

1 amended by adding Subsections (e) and (f) to read as follows:

2 (e) The commission shall:

3 (1) investigate the requirements for establishing an
4 Internet-based application process for rebate grants and report
5 those requirements to the legislature not later than December 31,
6 2007; or

7 (2) implement an Internet-based application process for
8 rebate grants not later than June 1, 2008.

9 (f) The commission or its designee shall notify potential
10 applicants of any changes to the rebate grant process by its e-mail
11 list service and posting those changes on its Internet website at
12 least 30 days before the changes become effective.

13 SECTION 2.08. Subsection (b), Section 386.251, Health and
14 Safety Code, is amended to read as follows:

15 (b) The fund is administered by the commission ~~comptroller~~
16 for the benefit of the plan established under this chapter. The
17 fund is exempt from the application of Section 403.095, Government
18 Code. Interest earned on the fund shall be credited to the fund.

19 SECTION 2.09. Subsection (a), Section 386.252, Health and
20 Safety Code, as amended by Section 3, Chapter 766, Section 3,
21 Chapter 1095, and Section 11, Chapter 1125, Acts of the 79th
22 Legislature, Regular Session, 2005, is reenacted and amended to
23 read as follows:

24 (a) Money in the fund may be used only to implement and
25 administer programs established under the plan and shall be

1 allocated as follows:

2 (1) for the diesel emissions reduction incentive
3 program, 87.5 percent of the money in the fund, of which not more
4 than four percent may be used for the clean school bus program and
5 not more than 10 percent may be used for on-road diesel purchase or
6 lease incentives;

7 (2) for the new technology research and development
8 program, 9.5 percent of the money in the fund, of which up to
9 \$250,000 is allocated for administration, up to \$200,000 is
10 allocated for a health effects study, \$500,000 is to be deposited
11 in the state treasury to the credit of the clean air account
12 created under Section 382.0622 to supplement funding for air
13 quality planning activities in affected counties, not less than 20
14 percent is to be allocated each year to support research related to
15 air quality for the Houston-Galveston-Brazoria and Dallas-Fort
16 Worth nonattainment areas by a nonprofit organization based in
17 Houston of which \$216,000 each year shall be contracted to the
18 Energy Systems Laboratory at the Texas Engineering Experiment
19 Station for the development and annual calculation of creditable
20 statewide emissions reductions obtained through wind and other
21 renewable energy resources for the State Implementation Plan, and
22 the balance is to be allocated each year to a [that] nonprofit
23 organization or an institution of higher education based in Houston
24 to be used to implement and administer the new technology research
25 and development program under a contract with the commission for

1 the purpose of identifying, testing, and evaluating new emissions-
2 reducing technologies with potential for commercialization in this
3 state and to facilitate their certification or verification; and

4 (3) for administrative costs incurred by the commission
5 and the laboratory, three percent of the money in the fund.

6 SECTION 2.10. Section 387.003, Health and Safety Code, is
7 amended by amending Subsection (a) and adding Subsections (c)
8 through (h) to read as follows:

9 (a) A [The] nonprofit organization or institution of higher
10 education described by Section 386.252(a)(2), under a contract with
11 the commission as described by that section, shall establish and
12 administer a new technology research and development program as
13 provided by this chapter. The commission may contract with more
14 than one entity and may limit the amount of each grant contract
15 accordingly.

16 (c) The board of directors of a nonprofit organization under
17 contract with the commission to establish and administer a new
18 technology research and development program as provided by this
19 chapter may not have more than 11 members, must include two persons
20 of relevant scientific expertise to be nominated by the commission,
21 and may not include more than four county judges selected from
22 counties in the Houston-Galveston-Brazoria and Dallas-Fort Worth
23 nonattainment areas. The two persons of relevant scientific
24 expertise to be nominated by the commission may be employees or
25 officers of the commission, provided that they do not participate

1 in funding decisions affecting the granting of funds by the
2 commission to a nonprofit organization on whose board they serve.

3 (d) The commission may enter into a grant contract with an
4 institution of higher education described by Section 386.252(a)(2)
5 for the institution to operate a testing facility which would be
6 available for demonstration of eligible projects receiving grants
7 under this chapter.

8 (e) The commission shall provide oversight as appropriate for
9 grants provided to a nonprofit organization under this program.

10 (f) A nonprofit organization shall submit to the commission
11 for approval a budget for the disposition of funds granted under
12 this program.

13 (g) The commission shall limit the use of grants for
14 administrative costs incurred by a nonprofit organization to an
15 amount not to exceed 10 percent of the funding provided to the
16 nonprofit organization under this program.

17 (h) A nonprofit organization that receives grants from the
18 commission under this program is subject to Chapters 551 and 552,
19 Government Code.

20 SECTION 2.11. Section 387.004, Health and Safety Code, is
21 amended to read as follows:

22 Sec. 387.004. SOLICITATION OF NEW TECHNOLOGY PROPOSALS. The
23 commission from time to time shall issue or contract with a
24 nonprofit organization described by Section 386.252(a)(2) to issue
25 specific requests for proposals (RFPs) or program opportunity

1 notices (PONs) for technology projects to be funded under the
2 program.

3 SECTION 2.12. Section 387.005, Health and Safety Code, is
4 amended to read as follows:

5 Sec. 387.005. ELIGIBLE PROJECTS; PRIORITIES. (a) Grants
6 awarded under this chapter shall be directed toward a balanced mix
7 of:

8 (1) retrofit and add-on technologies and other advanced
9 technologies that ~~[to]~~ reduce emissions from the existing stock of
10 engines and vehicles targeted by the Texas emissions reduction
11 plan;

12 (2) the establishment of a testing facility to evaluate
13 retrofits, add-ons, advanced technologies, and fuels, or
14 combinations of retrofits, add-ons, advanced technologies, and
15 fuels, to determine their effectiveness in producing emissions
16 reductions, with emphasis on the reduction of oxides of nitrogen;
17 and

18 (3) advanced technologies for new engines and vehicles
19 that produce very-low or zero emissions of oxides of nitrogen,
20 including stationary and mobile fuel cells[+]

21 ~~[(3) studies to improve air quality assessment and~~
22 ~~modeling, and~~

23 ~~[(4) advanced technologies that reduce emissions from~~
24 ~~other significant sources].~~

25 (b) The commission, directly or through a nonprofit

1 organization described by Section 386.252(a)(2), shall identify and
2 evaluate and may consider making grants for technology projects
3 that would allow qualifying fuels to be produced from energy
4 resources in this state. In considering projects under this
5 subsection, the commission shall give preference to projects
6 involving otherwise unusable energy resources in this state and
7 producing qualifying fuels at prices lower than otherwise available
8 and low enough to make the projects to be funded under the program
9 economically attractive to local businesses in the area for which
10 the project is proposed.

11 (c) In soliciting proposals under Section 387.004 and
12 determining how to allocate grant money available for projects
13 under this chapter, the commission shall give special consideration
14 to advanced technologies and retrofit or add-on projects that
15 provide multiple benefits by reducing emissions of particulates and
16 other air pollutants.

17 (d) A project that involves publicly or privately owned
18 vehicles or vessels is eligible for funding under this chapter if
19 the project meets all applicable criteria.

20 (e) ~~[Studies authorized under Subsection (a)(3) shall be~~
21 ~~consistent with air quality research priorities identified by the~~
22 ~~commission and conducted in an independent and objective manner.~~

23 ~~(f)~~ If a commissioner is an employee or owner of an entity
24 that applies for a grant under this chapter, the commissioner,
25 before a vote on the grant, shall disclose the fact of the

1 commissioner's employment or ownership. The disclosure must be
2 entered into the minutes of the meeting. The commissioner may not
3 vote on or otherwise participate in the awarding of the grant. If
4 the commissioner does not comply with this subsection, the entity
5 is not eligible for the grant.

6 (f) Selection of grant recipients by a nonprofit organization
7 described by Section 386.252(a)(2) under contract with the
8 commission for the purpose of establishing and administering a new
9 technology research and development program as provided by this
10 chapter is subject to the commission's review and to the other
11 requirements of this chapter. A grant contract under this chapter
12 using funds described by Section 386.252 may not be made by a
13 nonprofit organization if the commission or executive director of
14 the commission does not consent to the grant or contract.

15 SECTION 2.13. Subsection (d), Section 151.0515, Tax Code, is
16 amended to read as follows:

17 (d) This section expires August 31, 2013 [~~September 30,~~
18 ~~2010~~].

19 SECTION 2.14. Subsection (c), Section 152.0215, Tax Code, is
20 amended to read as follows:

21 (c) This section expires August 31, 2013 [~~September 30,~~
22 ~~2010~~].

23 SECTION 2.15. Subsections (a), (b), and (b-1), Section
24 501.138, Transportation Code, are amended to read as follows:

25 (a) An applicant for a certificate of title, other than the

1 state or a political subdivision of the state, must pay the county
2 assessor-collector a fee of:

3 (1) \$33 if the applicant's residence is a county located
4 within a nonattainment area as defined under Section 107(d) of the
5 federal Clean Air Act (42 U.S.C. Section 7407), as amended, or is
6 an affected county, as defined by Section 386.001, Health and
7 Safety Code; or

8 (2) \$28 if the applicant's residence is any other
9 county[~~+~~ ~~or~~

10 [~~(3) on or after September 1, 2010, \$28 regardless of~~
11 ~~the county in which the applicant resides~~].

12 (b) The county assessor-collector shall send:

13 (1) \$5 of the fee to the county treasurer for deposit in
14 the officers' salary fund;

15 (2) \$8 of the fee to the department:

16 (A) together with the application within the time
17 prescribed by Section 501.023; or

18 (B) if the fee is deposited in an interest-bearing
19 account or certificate in the county depository or invested in an
20 investment authorized by Subchapter A, Chapter 2256, Government
21 Code, not later than the 35th day after the date on which the fee
22 is received; and

23 (3) the following amount to the comptroller at the time
24 and in the manner prescribed by the comptroller:

25 (A) \$20 of the fee if the applicant's residence is

1 a county located within a nonattainment area as defined under
2 Section 107(d) of the federal Clean Air Act (42 U.S.C. Section
3 7407), as amended, or is an affected county, as defined by Section
4 386.001, Health and Safety Code; or

5 (B) \$15 of the fee if the applicant's residence is
6 any other county[~~or~~

7 [~~(C) on or after September 1, 2010, \$15 regardless~~
8 ~~of the county in which the applicant resides~~].

9 (b-1) Fees collected under Subsection (b) to be sent to the
10 comptroller shall be deposited as follows:

11 (1) before September 1, 2008, to the credit of the Texas
12 emissions reduction plan fund; and

13 (2) on or after September 1, 2008, to the credit of the
14 Texas Mobility Fund, except that \$5 of each fee imposed under
15 Subsection (a)(1) and deposited on or after September 1, 2008, and
16 before September 1, 2015 [~~2010~~], shall be deposited to the credit
17 of the Texas emissions reduction plan fund.

18 SECTION 2.16. Subsection (b-3), Section 501.138,
19 Transportation Code, is amended to read as follows:

20 (b-3) This subsection and Subsection (b-2) expire September
21 1, 2015 [~~2010~~].

22 SECTION 2.17. Subsection (c), Section 502.1675,
23 Transportation Code, is amended to read as follows:

24 (c) This section expires August 31, 2013 [~~2010~~].

25 SECTION 2.18. Subsection (c), Section 548.5055,

1 Transportation Code, is amended to read as follows:

2 (c) This section expires August 31, 2013 [~~2010~~].

3 SECTION 2.19. Section 12, Chapter 1125, Acts of the 79th
4 Legislature, Regular Session, 2005, amending Subsection (a),
5 Section 386.252, Health and Safety Code, is repealed.

6 ARTICLE 3. ENERGY EFFICIENCY

7 SECTION 3.01. Section 388.003, Health and Safety Code, is
8 amended by adding Subsections (b-1) and (b-2) to read as follows:

9 (b-1) If the State Energy Conservation Office determines,
10 based on written recommendations from the laboratory, that the
11 latest published edition of the International Residential Code
12 energy efficiency provisions or the latest published edition of the
13 International Energy Conservation Code will result in residential
14 or commercial energy efficiency and air quality that is equivalent
15 to or better than the energy efficiency and air quality achievable
16 under the editions adopted under Subsection (a) or (b), the office
17 may by rule adopt the equivalent or more stringent editions and
18 substitute them for the energy codes described by Subsection (a) or
19 (b). The rule, if adopted, shall establish an effective date for
20 the new energy codes but not earlier than nine months after the
21 date of adoption. The laboratory shall make its recommendations
22 not later than six months after publication of new editions at the
23 end of each three-year code development cycle of the International
24 Residential Code and the International Energy Conservation Code.

25 (b-2) The State Energy Conservation Office by rule shall

1 establish a procedure for persons who have an interest in the
 2 adoption of energy codes under Subsection (b-1) to have an
 3 opportunity to comment on the codes under consideration and to have
 4 the commentary considered by the laboratory in developing its
 5 recommendations. The office shall consider persons who have an
 6 interest in adoption of those codes to include:

7 (1) commercial and residential builders, architects and
 8 engineers;

9 (2) municipal, county, and other local government
 10 authorities; and

11 (3) environmental groups.

12 SECTION 3.02. Section 388.005, Health and Safety Code, is
 13 amended to read as follows:

14 Sec. 388.005. ENERGY EFFICIENCY PROGRAMS IN INSTITUTIONS OF
 15 HIGHER EDUCATION, STATE AGENCIES, AND CERTAIN POLITICAL
 16 SUBDIVISIONS. (a) In this section:

17 (1) "Institution of higher education" includes an
 18 institution of higher education as defined by Section 61.003,
 19 Education Code, and a private institution of higher education that
 20 receives funding from the state.

21 (2) "Political[~~,"~~ "political"] subdivision" means:

22 (A) [~~+1~~] an affected county; or

23 (B) [~~+2~~] any political subdivision in a
 24 nonattainment area or in an affected county other than:

25 (i) [~~+A~~] a school district; or

1 (ii) ~~[(B)]~~ a district as defined by Section
2 36.001 or 49.001, Water Code, that had a total annual electricity
3 expense of less than \$200,000 in the previous fiscal year of the
4 district.

5 (3) "State agency" means a department, commission,
6 board, office, council, or other agency in the executive branch of
7 government that is created by the constitution or a statute of this
8 state and has authority not limited to a geographical portion of
9 the state.

10 (b) Each political subdivision, institution of higher
11 education, or state agency shall implement all energy efficiency
12 measures that meet the standards established for a contract for
13 energy conservation measures under Section 302.004(b), Local
14 Government Code, in order to reduce electricity consumption by the
15 existing facilities of the entity ~~[the political subdivision]~~.

16 (c) Each political subdivision, institution of higher
17 education, or state agency shall establish a goal to reduce the
18 electric consumption by the entity ~~[political subdivision]~~ by five
19 percent each year for six ~~[five]~~ years, beginning September 1, 2007
20 ~~[January 1, 2002]~~.

21 (d) A political subdivision, institution of higher education,
22 or state agency that does not attain the goals under Subsection (c)
23 must include in the report required by Subsection (e) justification
24 that the entity ~~[political subdivision]~~ has already implemented all
25 available measures. An entity that submits a report under this

1 subsection indicating it has already implemented all available
 2 measures is exempt from the annual reporting requirement of
 3 Subsection (e) if a subsequent report would indicate no change in
 4 status. An entity may be required to provide notice that it is
 5 exempt to the State Energy Conservation Office.

6 (e) A political subdivision, institution of higher education,
 7 or state agency annually shall report to the State Energy
 8 Conservation Office, on forms provided by that office, regarding
 9 the entity's [~~political subdivision's~~] efforts and progress under
 10 this section. The State Energy Conservation Office shall provide
 11 assistance and information to the entity [~~political subdivisions~~]
 12 to help it [~~the political subdivisions~~] meet the goals set under
 13 this section.

14 (f) This section does not apply to an institution of higher
 15 education or a state agency if:

16 (1) the State Energy Conservation Office determines
 17 that, before September 1, 2007, the institution or agency adopted a
 18 plan for conserving energy under which the institution or agency
 19 has set a percentage goal for reducing electric consumption; and

20 (2) the institution or agency submits reports on its
 21 conservation plan not less than quarterly to the governor, the
 22 Legislative Budget Board, and the State Energy Conservation Office.

23 SECTION 3.03. Subsection (b), Section 44.901, Education Code,
 24 is amended to read as follows:

25 (b) The board of trustees of a school district shall

establish a goal to reduce the annual electric consumption by five percent each year for six years, beginning September 1, 2007. The board of trustees of a school district may enter into an energy savings performance contract in accordance with this section.

SECTION 3.04. Subsection (d), Section 2155.068, Government Code, is amended to read as follows:

(d) As part of the standards and specifications program, the commission shall review contracts for opportunities to recycle waste produced at state buildings, shall develop and update a list of equipment and appliances that meet the energy efficiency standards of Section 2158.301, and shall assist state agencies in selecting products under that section as appropriate.

SECTION 3.05. Chapter 2158, Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. ENERGY AND EFFICIENCY STANDARDS
FOR EQUIPMENT AND APPLIANCES

Sec. 2158.301. ENERGY CONSERVATION. If available and cost effective, the commission or another state agency shall purchase equipment and appliances for state use that meet or exceed the federal Energy Star standards designated by the United States Environmental Protection Agency and the United States Department of Energy.

SECTION 3.06. (a) The State Energy Conservation Office shall adopt rules implementing a procedure for stakeholder participation as required under Subsection (b-2), Section 388.003, Health and

1 Safety Code, as added by this article, as soon as practicable after
2 the effective date of this Act.

3 (b) The State Energy Conservation Office shall adopt rules as
4 necessary to implement Subsection (b), Section 44.901, Education
5 Code, as amended by this article, as soon as practicable after the
6 effective date of this Act.

7 SECTION 3.07. (a) The energy conservation standards for
8 equipment and appliances under Section 2158.301, Government Code,
9 as added by this article, apply to a purchase by a state agency on
10 or after the effective date of this Act.

11 (b) The Texas Building and Procurement Commission shall
12 develop a list of equipment and appliances under Section 2155.068,
13 Government Code, as amended by this article, as soon as practicable
14 after the effective date of this Act.

15 ARTICLE 4. IDLING OF MOTOR VEHICLES

16 SECTION 4.01. Sections 382.0191(b), (c), and (d), Health and
17 Safety Code, are amended to read as follows:

18 (b) The commission may not prohibit or limit the idling of a
19 motor vehicle when idling is necessary to power a heater or air
20 conditioner while a driver is using the vehicle's sleeper berth for
21 a government-mandated rest period. Idling is not necessary to
22 power a heater or air conditioner if the vehicle is within two
23 miles of a facility offering external heating and air conditioning
24 connections at a time when those connections are available.

25 (c) No driver using the vehicle's sleeper berth may idle the

1 vehicle in a residential area as defined by Section 244.001, Local
2 Government Code, or in a school zone or within 1,000 feet of a
3 hospital or a public school during its hours of operation. An
4 offense under this subsection shall be punishable by a fine not to
5 exceed \$500.

6 (d) This section expires September 1, 2009 [~~2007~~].

7 ARTICLE 5. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

8 NOTIFICATION REQUIREMENTS

9 SECTION 5.01. Section 382.0516, Health and Safety Code, is
10 amended to read as follows:

11 Sec. 382.0516. NOTICE TO STATE SENATOR, STATE [~~AND~~]
12 REPRESENTATIVE, AND CERTAIN LOCAL OFFICIALS. (a) On receiving an
13 application for a construction permit or an amendment to a
14 construction permit, a special permit, or an operating permit for a
15 facility that may emit air contaminants, the commission shall send
16 notice of the application to the state senator and representative
17 who represent the area in which the facility is or will be located.

18 (b) In addition to the notice required by Subsection (a), for
19 an application that relates to an existing or proposed concrete
20 batch plant, on receiving an application for a construction permit,
21 an amendment to a construction permit, an operating permit, or an
22 authorization to use a standard permit, the commission shall send
23 notice of the application:

24 (1) to the county judge of the county in which the
25 facility is or will be located; and

(2) if the facility is or will be located in a municipality or the extraterritorial jurisdiction of a municipality, to the presiding officer of the municipality's governing body.

SECTION 5.02. The notice provisions under Section 382.0516, Health and Safety Code, as amended by this article, apply only to an application for a permit that is submitted to the Texas Commission on Environmental Quality on or after the effective date of this article.

SECTION 5.03. This article takes effect September 1, 2007.

ARTICLE 6. ENFORCEMENT ACTIONS BASED ON INFORMATION PROVIDED BY A PERSON

SECTION 6.01. Chapter 7, Water Code, is amended by adding Section 7.00251 to read as follows:

Sec. 7.00251. INITIATION OF CERTAIN CLEAN AIR ACT ENFORCEMENT ACTIONS USING INFORMATION PROVIDED BY A PERSON. If the commission determines that there are multiple violations based on information it receives as required by Title V of the federal Clean Air Act (42 U.S.C. Section 7661 et seq.) from a person, as defined in Section 382.003, Health and Safety Code, only those that require initiation of formal enforcement will be included in any proposed enforcement action. For all other violations that do not require initiation of formal enforcement, the commission may not include in the enforcement action the following:

(1) violations that are not repeat violations due to the

same root cause from two consecutive investigations within the most recent five-year period; or

(2) violations that have been corrected within the time frame specified by the commission or for which the facility has not had the time specified by the commission to correct the violations.

ARTICLE 7. SOLAR ENERGY DEMONSTRATION PROJECT

SECTION 7.01. Chapter 39, Utilities Code, is amended by adding Section 39.9051 to read as follows:

Sec. 39.9051. ENERGY EFFICIENCY DEMONSTRATION PROJECTS FOR SOLAR ELECTRIC SYSTEM; GRANT PROGRAM. (a) The commission by rule shall establish grant programs for:

(1) a demonstration project for installation of solar electric systems for new residential subdivisions;

(2) a demonstration project for installation of solar electric systems for new or established affordable housing for persons with low incomes; and

(3) a demonstration project for installation of solar electric systems for not more than three small businesses.

(b) To qualify for a grant under this section, the solar electric system must be a device that:

(1) generates electricity using solar resources;

(2) has a generating capacity of not more than 1,000 kilowatts; and

(3) is installed with a manufacturer's warranty against breakdown or undue degradation for a period of at least five years.

1 (c) A demonstration project grant program established under
2 this section must provide for full or partial payment of the cost
3 of equipment and installation for the solar electric systems. The
4 commission shall establish for each grant program a competitive
5 bidding process for grant applicants. The commission shall
6 consider the value of funding demonstration projects in different
7 parts of this state, after considering the demographic and
8 geographic diversity of this state.

9 (d) To qualify for a grant under Subsection (a)(1) the
10 applicant:

11 (1) must be a person whose primary business activity is
12 the building of residential housing developments; and

13 (2) must have installed or must be contractually
14 obligated to install qualifying solar electric systems in each
15 residence constructed in a residential subdivision.

16 (e) To qualify for a grant under Subsection (a)(2) the
17 applicant must have installed or be contractually obligated to
18 install a qualifying solar electric system for residential real
19 property:

20 (1) appraised in accordance with Section 23.21, Tax
21 Code, as affordable housing property; or

22 (2) subject to a contractual obligation that the
23 property will be appraised in accordance with Section 23.21, Tax
24 Code, as affordable housing property within a reasonable time after
25 the grant is received.

1 (f) To qualify for a grant under Subsection (a)(3), the
2 applicant must be a small business or owner of a small business
3 that meets qualifications adopted by the commission after
4 consideration of federal Small Business Administration standards
5 for qualification for loans from that administration.

6 (g) The commission shall issue a report to the governor,
7 lieutenant governor, and speaker of the house of representatives
8 not later than December 1 of each even-numbered year summarizing
9 the status of the grant programs established under Subsection (a).

10 The report must include the amount of money granted to each
11 demonstration project and an evaluation of whether the projects
12 demonstrate the economic and ecologic viability of solar electric
13 system installations.

14 (h) This section expires December 31, 2010.

15 SECTION 7.02. (a) The Public Utility Commission of Texas may
16 not spend money to implement a demonstration project grant program
17 established under Section 39.9051, Utilities Code, as added by this
18 article, except for money described by Subsection (b) of this
19 section that is appropriated to the commission.

20 (b) The Public Utility Commission of Texas may solicit and
21 accept gifts, grants, and other donations from any source to carry
22 out the demonstration grant program established under Section
23 39.9051, Utilities Code, as added by this article.

24 (c) This section expires December 31, 2010.

25 ARTICLE 8. EFFECTIVE DATE

1 SECTION 8.01. This Act takes effect immediately if it
2 receives a vote of two-thirds of all the members elected to each
3 house, as provided by Section 39, Article III, Texas Constitution.
4 If this Act does not receive the vote necessary for immediate
5 effect, this Act takes effect September 1, 2007.

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SENATE VERSION

ARTICLE 1. LOW-INCOME VEHICLE REPAIR ASSISTANCE, RETROFIT, AND ACCELERATED VEHICLE RETIREMENT PROGRAM

SECTION 1.01. Amends Section 382.003, Health and Safety Code, by adding Subdivisions (7-a), (9-a), (9-b), (10-a), and (10-b) to define terms. Among other terms, defines "new motor vehicle," "qualifying new motor vehicle," and "retail sale." Defines "qualifying new motor vehicle" to mean a motor vehicle that meets the requirements of Section 382.210(b).

SECTION 1.02. Amends Subsection (b), Section 382.0622, Health and Safety Code.

SECTION 1.03. Amends Section 382.209, Health and Safety Code, by amending Subsections (b), (e), and (g) and adding Subsections (i) and (j) as follows:

(b) Specifies that not more than 10 percent of the money provided to a local low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program under this section may be used for the administration of the programs, *including program costs*.

HOUSE VERSION

Same as Senate version.

SECTION 1.01. Same as Senate version except does not define "new motor vehicle" or "retail sale." Instead of "qualifying new motor vehicle," defines "qualifying motor vehicle" to mean a motor vehicle that *has a current emissions inspection sticker and* meets the requirements of Section 382.210(b).

Same as Senate version.

SECTION 1.04. Same as Senate version except as follows:

Same as Senate version except applies the 10 percent limit to counties with a vehicle emissions inspection and maintenance program under Section 382.202 and does not specify that the limit includes program costs. Also provides that, in a county with a vehicle emissions inspection and maintenance program under Section 382.302, the commission shall provide 10 percent of all the fees collected in that county for a low-income vehicle

CONFERENCE

SECTION 1.01. Same as Senate version, except omits (9-b) "New Motor Vehicle", and (10-b) "retail sale", and defines "qualifying motor vehicle," rather than "qualifying new motor vehicle" with the same meaning.

SECTION 1.02. Same as Senate version.

SECTION 1.03. Same as Senate version except as follows:

Same as Senate version.

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CONFERENCE

repair assistance, retrofit, and accelerated vehicle retirement program under this section for the administration of the program.

(e) Adds to the eligibility requirements for a vehicle to participate in a low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program.

Same as Senate version except makes a conforming change.

Same as Senate version except makes a change conforming to the revised definition of "qualifying motor vehicle," rather than "qualifying new motor vehicle."

(g)

Same as Senate version.

Same as Senate version.

(i) Establishes the criteria a vehicle must meet for its replacement to be eligible for monetary or other compensatory assistance under the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program, including the requirement that the vehicle be gasoline-powered.

Same as Senate version except does not specify that a vehicle must be gasoline-powered.

Same as Senate version.

(j)

Substantially the same as Senate version. Makes clarifying and conforming changes.

Same as House version.

SECTION 1.04. Amends Section 382.210, Health and Safety Code, as follows:

SECTION 1.05. Same as Senate version except as follows:

SECTION 1.04. Same as Senate version except as follows:

(a) Revises the minimum guidelines for assisting a participating county in implementing a low-income

Substantially the same as Senate version except revises the guidelines to require that the minimum and

Same as House version, except omits Subdivisions (D) - (F) and changes (A) - (C) as follows:

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vehicle repair assistance, retrofit, and accelerated vehicle retirement program authorized under Section 382.209 to require that the recommended maximum amount toward the purchase price of a replacement vehicle not exceed \$2,500 or, if the replacement vehicle is a hybrid motor vehicle, \$3,500.

(b) Requires a replacement vehicle described by Subsection (a)(2) to: (1) be a vehicle in a class or category of vehicles that has been certified to meet federal Tier 2, Bin 5 or a cleaner Bin certification under 40 C.F.R. Section 86.1811-04, as published in the February 10, 2000, Federal Register; (2) *have a gross vehicle weight rating of less than 10,000 pounds*; and (3) be a vehicle the total cost of which does not exceed

HOUSE VERSION

maximum amount toward the purchase price be based on vehicle type and model year and to require that the recommended maximum amount toward the purchase price of a replacement vehicle not exceed:

- (A) \$3,000 for a replacement vehicle of the latest model year, except as provided by Paragraph E;
- (B) \$2,500 for a replacement vehicle of the previous two model years, except as provided by Paragraph F;
- (C) \$2,000 for a replacement vehicle the model year of which is more than two years but is five years or less before the year in which the vehicle is purchased as a replacement vehicle, except as provided by Paragraph F;
- (D) \$1,500 for a replacement vehicle the model year of which is more than five years but is 10 years or less before the year in which the vehicle is purchased as a replacement vehicle;
- (E) \$5,000 for a replacement hybrid motor vehicle of the latest model year; and
- (F) \$3,500 for a replacement hybrid motor vehicle of the preceding five model years.

Only requires a replacement vehicle described by Subsection (a)(2) to have a gross vehicle weight rating of less than 10,000 pounds.

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- (A) \$3,000 for a replacement car of the current model year or the previous three model years; except as provided by Paragraph (c);
- (B) \$3,000 for a replacement truck of the current model year or the previous two model years, except as provided by Paragraph (c); and
- (C) \$3,500 for a replacement hybrid vehicle of the current model year or the previous model year.

Same as Senate version.

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\$25,000.

(c) Allows the commission to adopt any revisions made by the federal government to the emissions standards described by Subsection (b)(1).

No equivalent provision.

Same as Senate version.

(d) Among other provisions, requires a participating county to ensure that funds are transferred to a participating dealer under this section not later than *one business day* after the date the *sale of a replacement vehicle is completed*.

(c) Same as Senate version except specifies that funds are transferred to a participating dealer not later than *five business days* after the date the *county receives proof of the sale and any required administrative documents from the participating dealer*.

Same as House version.

(e) Requires rules to require a *mandatory procedure* relating to documentation of eligibility to purchase a *new vehicle* in the manner provided by this chapter.

(d) Substantially the same as Senate version except requires a *procedure* relating to documentation of eligibility to purchase a *replacement vehicle*.

Same as Senate version except retains the change to a replacement vehicle in the House version.

(f) Defines "total cost."

No equivalent provision.

Same as Senate version.

SECTION 1.05. Amends Subsection (a) and adds Subsections (d) through (i), Section 382.213, Health and Safety Code, as follows:

SECTION 1.06. Adds Subsections (d) through (i), Section 382.213, Health and Safety Code, as follows:

SECTION 1.05. Same as Senate version, except as follows:

(a) Provides that, notwithstanding Subsection (c) and Subdivision (5) of this subsection, a vehicle retired under an accelerated vehicle retirement program authorized by

No equivalent provision.

Same as Senate version.

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Section 382.209 may not be resold or reused in its entirety in any state. Provides that the automobile dealer who takes possession of the vehicle must submit to the program administrator proof that the vehicle has been retired. Specifies that the vehicle must be: (1) destroyed; (2) recycled; (3) dismantled and its parts sold as used parts or used in the program; (4) placed in a storage facility of a program established under Section 382.209 and subsequently destroyed, recycled, or dismantled and its parts sold or used in the program; or (5) repaired, brought into compliance, and used as a replacement vehicle under Section 382.209(d)(2).

(d) Among other provisions, provides that, notwithstanding Subsection (a)(3), the dismantler of a vehicle shall scrap the emissions control equipment and engine and certify that the equipment and engine have been scrapped and not resold into the marketplace.

(e) Provides that, *notwithstanding Subsection (d), vehicle parts not related to emissions control equipment or the engine* may be resold in any state.

(f) - (g)

(h) Requires the commission to adopt rules defining "emissions control equipment" and "engine."

HOUSE VERSION

Same as Senate version except adds the power train to those parts that must be scrapped and makes a conforming change.

Provides that, *except as provided by Subsection (d), vehicle parts* may be resold in any state.

Same as Senate version.

Same as Senate version except also requires a definition of "power train."

CONFERENCE

Same as Senate version.

Same as Senate version, except also provides that the only cost to be paid by the recycler for the residual scrap metal of these vehicles shall be the cost of transportation of the residual scrap metal to the recycling facility.

Same as Senate version.

Same as Senate version.

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(i)

Same as Senate version.

Same as Senate version.

SECTION 1.06. Adds Section 382.219, relating to Purchase of Replacement Vehicle; Automobile Dealerships, Subchapter G, Chapter 382, Health and Safety Code.

SECTION 1.07. Substantially the same as Senate version.

SECTION 1.06. Same as Senate version.

SECTION 1.07. Adds Section 382.220, relating to Use of Funding for Local Initiative Projects, Subchapter G, Chapter 382, Health and Safety Code, as follows:

SECTION 1.08. Same as Senate version except as follows:

SECTION 1.07. Same as Senate version except as follows:

(a) Clarifies that money that is made available to *affected or participating counties* under Sections 382.202(g) and 382.302 may be appropriated only for programs administered in accordance with Chapter 783, Government Code, to improve air quality.

(a) Same as Senate version except refers to money made available to *participating counties* under Section 382.202(g) or 382.302 and adds a provision allowing a participating county to agree to contract with any appropriate entity or a council of governments to implement a program under Section 382.202, 382.209, or this section.

Same as House version.

(b)

Substantially the same as Senate version.

Same as Senate version.

(c) Prohibits money that is made available for the implementation of a program under Subsection (b) from being expended for call center management, application oversight, invoice analysis, education, outreach, or advertising purposes.

Allows money that is made available for the implementation of a program under Subsection (b) to be expended for call center management, application oversight, invoice analysis, education, outreach, or advertising purposes.

Same as Senate version.

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(d) Limits fees collected under Sections 382.202 and 382.302 that may be used for projects described by Subsection (b) to *\$5 million* per fiscal year. Provides that fees shall be made available only to counties participating in the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement programs created under Section 382.209 *and only on a matching basis, whereby the commission provides money to a county in the same amount that the county dedicates to a project authorized by Subsection (b).*

(d) Substantially the same as Senate version except limits fees to *\$10 million* per fiscal year and does not include the provision for fees to be available only on a matching basis.

Same as Senate version.

SECTION 1.08. Amends Subsection (b), Section 152.002, Tax Code.

SECTION 1.09. Same as Senate version.

SECTION 1.08. Same as Senate version.

SECTION 1.09 - SECTION 1.12.

SECTION 1.10 - SECTION 1.13. Same as Senate version.

SECTION 1.09 - SECTION 1.12. Same as Senate version.

SECTION 1.13. Among other provisions, requires the Texas Commission on Environmental Quality, not later than January 1, 2008, to define "emissions control equipment" and "engine."

SECTION 1.14. Same as Senate version except makes a conforming change.

SECTION 1.13. Same as Senate version.

No equivalent provision.

ARTICLE __. CLEAN AIR ACT

Same as Senate version.

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CONFERENCE

No equivalent provision.

SECTION __.01. Adds Section 382.0203, Subchapter B, Chapter 382, Health and Safety Code. Provides that, not later than December 31, 2009, the commission shall adopt ambient air quality standards for toxic air contaminants, including: (1) benzene; (2) 1,3 butadiene; (3) ethylene dichloride; (4) formaldehyde; and (5) nickel. Provides that the commission will develop standards for a contaminant under Subsection (a) and ensure that the allowed average concentration level of the contaminant does not result in an increased risk of cancer greater than one chance in one million for a person exposed to the contaminant over a specified period determined by commission rule. Specifies that standards adopted under Subsection (a) apply to permits issued before, on, or after the date the standards are adopted.

Same as Senate version.

No equivalent provision.

ARTICLE __. CONTROL OF EMISSIONS OF AIR CONTAMINANTS

Same as Senate version.

No equivalent provision.

SECTION __.01. Amends Section 382.0205, Health and Safety Code, relating to Special Problems Related to Air Contaminant Emissions. Provides that the commission shall control air contaminants as necessary to protect against adverse effects related to: (1) acid deposition; (2) stratospheric changes, including depletion of ozone; (3) climatic changes, including global warming; and (4) air

Same as Senate version.

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pollution in a manner consistent with applicable federal law.

No equivalent provision.

SECTION __.02. Adds Sections 382.0206 and 382.0207, Subchapter B, Chapter 382, Health and Safety Code. Requires the commission to establish and maintain an air pollutant watch list that must identify each air contaminant that the commission determines should be included on the air pollutant watch list and each geographic area of the state for which ambient air quality monitoring data indicates that the individual or cumulative emissions of one or more air contaminants identified by the commission under Subdivision (1) may cause short-term or long-term adverse human health effects or odors in that area. Requires the commission to publish notice of and allow public comment on addition or removal of an air contaminant to or from the air pollutant watch list or the addition or removal of an area from the air pollutant watch list. Requires the commission to hold a public meeting each year in each area listed on the air pollutant watch list to provide residents of the area with information regarding the reasons for the area's inclusion on the air pollutant watch list and commission actions to reduce the emissions of air contaminants contributing to the area's inclusion on the air pollutant watch list. Provides that, not later than December 1 of each year, the commission shall prepare and provide an electronic report to the governor, the lieutenant governor, and the speaker of the house of

Same as Senate version.

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representatives regarding the air pollutant watch list. Provides that the report include: the areas and air contaminants currently listed on the air pollutant watch list; the areas and air contaminants added to or removed from the air pollutant watch list during the preceding fiscal year; actions taken by the commission during the preceding fiscal year to reduce the ambient air concentration levels of air contaminants included on the air pollutant watch list; and any additional monitoring that is needed in a particular area of the state to determine whether the area should be included on the air pollutant watch list. Specifies that the air pollutant watch list and the addition or removal of a pollutant or area to or from the list are not matters subject to the procedural requirements of Subchapter B, Chapter 2001, Government Code. Directs the commission to promptly publish any ambient air quality data collected by the commission - from mobile or stationary ambient air quality monitors - on its Internet website.

No equivalent provision.

SECTION __.03. Provides that the Texas Commission on Environmental Quality shall prepare and provide to the governor, the lieutenant governor, and the speaker of the house of representatives the initial report required under Section 382.0206(d), Health and Safety Code, not later than December 1, 2008.

Same as Senate version.

No equivalent provision.

SECTION __.04. Effective date for the article.

Same as Senate version.

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No equivalent provision.

ARTICLE __. CONSIDERATION OF CERTAIN
CUMULATIVE EFFECTS

Same as Senate version.

No equivalent provision.

SECTION __.01. Adds Subsection (b-1), Section 382.0518, Health and Safety Code, to require the commission to consider the cumulative effects on the public's health and physical property of expected air contaminant emissions from the facility or proposed facility and from other facilities located less than three miles from the facility or proposed facility in making its finding under Subsection (b)(2) as to whether emissions from the facility will contravene the intent of this chapter.

Same as Senate version.

No equivalent provision.

SECTION __.02. Amends Section 382.055(d), Health and Safety Code, to add that, in determining whether and under which conditions a preconstruction permit should be renewed, the commission shall consider the cumulative effects on the public's health and physical property of expected air contaminant emissions from the facility and from other facilities located less than three miles from the facility.

Same as Senate version.

No equivalent provision.

SECTION __.03. Specifies that the changes in law made by this article apply only to the issuance or renewal of a

Same as Senate version.

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permit the application for which is filed with the Texas Commission on Environmental Quality on or after the effective date of this article. Specifies that the issuance or renewal of a permit the application for which is filed with the Texas Commission on Environmental Quality before the effective date of this article is governed by the law in effect when the application is filed, and the former law is continued in effect for that purpose.

No equivalent provision.

SECTION __.04. Effective date of the article.

Same as Senate version.

ARTICLE 2. TEXAS EMISSIONS REDUCTION PLAN

Same as Senate version.

ARTICLE 2. Same as Senate version except as follows:

SECTION 2.01. Amends Section 386.002, Health and Safety Code.

Same as Senate version.

SECTION 2.01. Same as Senate version.

No equivalent provision.

SECTION 2.02. Amends Subsection (a), Section 386.052, Health and Safety Code, to add to the duties of the commission in administering the plan the hiring of staff and consultants needed to complete the commission's duties under this section and ensure timely review of applications and reimbursement of grant applicants' eligible project costs.

SECTION 2.02. Same as House version, makes the hiring provision permissive.

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SECTION 2.02. Amends Subsection (d), Section 386.053, Health and Safety Code.

SECTION 2.03. Amends Subsection (c), Section 386.104, Health and Safety Code. In current law, the subsection provides that, other than a project involving a marine vessel or engine, not less than *75 percent* of vehicle miles traveled or hours of operation projected for the five years immediately following the award of a grant must be projected to take place in a nonattainment area or affected county of this state. A provision is added to authorize the commission to also allow certain other vehicle travel outside of a nonattainment area or affected county to count towards the percentage of use requirement in the subsection. Also, for a proposed project involving a marine vessel or engine, the vessel or engine must be operated in the intercoastal waterways or bays *adjacent to* a nonattainment area or affected county of this state for a certain amount of time to meet the cost-effectiveness requirements of Section 386.105.

SECTION 2.04. Amends Subsection (a), Section 386.106, Health and Safety Code.

SECTION 2.05. Amends Section 386.109, Health and Safety Code, relating to eligible infrastructure projects.

HOUSE VERSION

SECTION 2.03. Same as Senate version.

SECTION 2.04. Same as Senate version except changes current law to specify that not less than *50 percent* of vehicle miles traveled or hours of operation projected must be projected to take place in a nonattainment area or affected county. For a proposed project involving a marine vessel or engine, the vessel or engine must be operated in the intercoastal waterways or bays *adjacent to or in an area within nine miles of* a nonattainment area or affected county of this state.

SECTION 2.05. Same as Senate version.

SECTION 2.06. Same as Senate version except adds marine vessels and transportation congestion mitigation projects to the list of items the commission may consider

CONFERENCE

SECTION 2.03. Same as Senate version.

SECTION 2.04. Same as Senate version.

SECTION 2.05. Same as Senate version.

SECTION 2.06. Same as House version, except does not include transportation congestion mitigation projects.

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for funding under Section 386.108 and makes conforming and clarifying changes.

SECTION 2.06. Adds Subsection (e), Section 386.117, Health and Safety Code, as follows:

SECTION 2.07. Amends Section 386.117, Health and Safety Code, by amending Subsections (a) and (c) and adding Subsections (e) and (f) as follows:

SECTION 2.07. Same as Senate version.

No equivalent provision.

(a) Adds to the list of requirements for the process for awarding grants under this subchapter to provide that the process must fund rebates on an ongoing first-come, first-served basis and set aside funds for projects with non-road engines used in construction or related activities; encourage projects with non-road engines used in construction or related activities by ensuring that the percentage of rebate grant funding for those projects is commensurate with the percentage of emissions sources in the mobile inventory in the state implementation plan or early action compact, as applicable, that are non-road engines used in construction or related activities.

Same as Senate version.

No equivalent provision.

(c) Removes reference to the pilot project status of the award of rebate grants.

Same as Senate version.

No equivalent provision.

(e) Requires the commission to: (1) investigate the requirements for establishing an Internet-based application process for rebate grants and report those

Same as House version.

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requirements to the legislature not later than December 31, 2007; or (2) implement an Internet-based application process for rebate grants not later than June 1, 2008.

(e)

(f) Same as Senate version.

Same as Senate version.

SECTION 2.07. Amends Subsection (b), Section 386.251, Health and Safety Code.

SECTION 2.08. Same as Senate version.

SECTION 2.08. Same as Senate version.

No equivalent provision.

SECTION 2.09. Reenacts and amends Subsection (a), Section 386.252, Health and Safety Code, as amended by Section 3, Chapter 766, Section 3, Chapter 1095, and Section 11, Chapter 1125, Acts of the 79th Legislature, Regular Session, 2005, relating to use of money in the fund to specify that the balance of the allocation for the technology research and development program is to be allocated to *a nonprofit organization or an institution of higher education* based in Houston.

SECTION 2.09. Same as House version.

SECTION 2.08. Amends Section 387.003, Health and Safety Code, by adding Subsections (c) through (f) as follows:

SECTION 2.10. Amends Section 387.003, Health and Safety Code, by amending Subsection (a) and adding Subsections (c) through (h) as follows:

SECTION 2.10. Same as House version.

No equivalent provision.

(a) Makes a conforming change and provides that the commission may contract with more than one entity and

Same as House version.

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may limit the amount of each grant contract accordingly.

No equivalent provision.

(c) Provides that the board of directors of a nonprofit organization under contract with the commission to establish and administer a new technology research and development program as provided by this chapter may not have more than 11 members, must include two persons of relevant scientific expertise to be nominated by the commission, and may not include more than four county judges selected from counties in the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas. The two persons of relevant scientific expertise to be nominated by the commission may be employees or officers of the commission, provided that they do not participate in funding decisions affecting the granting of funds by the commission to a nonprofit organization on whose board they serve.

Same as House version.

No equivalent provision.

(d) Provides that the commission may enter into a grant contract with an institution of higher education described by Section 386.252(a)(2) for the institution to operate a testing facility which would be available for demonstration of eligible projects receiving grants under this chapter.

Same as House version.

(c) - (f)

(e) - (h) Same as Senate version except makes conforming changes.

Same as House version.

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No equivalent provision.

SECTION 2.09. Amends Section 387.005, Health and Safety Code, relating to eligible projects and priorities for grants awarded under the chapter.

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SECTION 2.11. Amends Section 387.004, Health and Safety Code, to allow the commission to contract with a nonprofit organization described by Section 386.252(a)(2) to perform its duty to issue specific requests for proposals (RFPs) or program opportunity notices (PONs) for technology projects to be funded under the program.

SECTION 2.12. Same as Senate version except adds the establishment of a testing facility to evaluate retrofits, add-ons, advanced technologies, and fuels, or combinations of retrofits, add-ons, advanced technologies, and fuels, to determine their effectiveness in producing emissions reductions, with emphasis on the reduction of oxides of nitrogen to the types of projects to which the awarding of grants is to be directed. Makes a conforming change. Specifies that selection of grant recipients by a nonprofit organization described by Section 386.252(a)(2) under contract with the commission for the purpose of establishing and administering a new technology research and development program as provided by this chapter is subject to the commission's review and to the other requirements of this chapter. Provides that a grant contract under this chapter using funds described by Section 386.252 may not be made by a nonprofit organization if the commission or executive director of the commission does not consent to the grant or contract.

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SECTION 2.11. Same as House version.

SECTION 2.12. Same as House version.

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SECTION 2.10 - SECTION 2.11.

SECTION 2.12. Amends Subsections (a), (b), and (b-1), Section 501.138, Transportation Code. Among other provisions, revises provisions relating to deposit of fees collected under Subsection (b) that are to be sent to the comptroller to stipulate that on or after September 1, 2010, the full amount is to be deposited to the credit of the Texas emissions reduction plan fund.

No equivalent provision.

SECTION 2.13 - SECTION 2.15.

ARTICLE 3. ENERGY EFFICIENCY

SECTION 3.01. Adds Subsections (b-1) and (b-2), Section 388.003, Health and Safety Code, as follows:

HOUSE VERSION

SECTION 2.13 - SECTION 2.14. Same as Senate version.

SECTION 2.15. Same as Senate version except revises provisions relating to deposit of fees collected under Subsection (b) that are to be sent to the comptroller to extend the period of time that the \$5 of each fee to be deposited to the credit of the Texas emissions reduction plan fund from September 1, 2010, to September 1, 2015. Does not provide for the entire amount to be deposited to the credit of the Texas emissions reduction plan fund at any time.

SECTION __. Amends Section 501.138 (b-3), Transportation Code, to change the expiration date from September 1, 2010, to September 1, 2015.

SECTION 2.16 - SECTION 2.18. Same as Senate version.

Same as Senate version.

Same as Senate version except as follows:

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SECTION 2.13 - SECTION 2.14. Same as Senate version.

SECTION 2.15. Same as House version.

SECTION 2.16. Same as House version.

SECTION 2.17 - SECTION 2.19. Same as Senate version.

ARTICLE 3. Same as Senate version.

SECTION 3.01. Same as House version.

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(b-1) Specifies that, if the State Energy Conservation Office determines, based on written recommendations from the laboratory, that the latest published edition of the International Residential Code energy efficiency provisions or the latest published edition of the International Energy Conservation Code *will improve residential or commercial energy efficiency and air quality equivalent to or more stringent than the editions* adopted under Subsection (a) or (b), the office may by rule adopt the equivalent or more stringent editions and substitute them for the *initial editions* described by Subsection (a) or (b). The rule, if adopted, shall establish an effective date for the new *editions* but not earlier than nine months after the date of adoption. The laboratory shall make its recommendations not later than six months after publication of new editions at the end of each three-year code development cycle of the International Residential Code and the International Energy Conservation Code.

(b-2) Requires the State Energy Conservation Office to establish a procedure for persons who have an interest in the adoption of *energy efficiency* codes under Subsection (b-1), *including commercial and residential builders, architects and engineers, county and other local government authorities, and environmental groups*, to

HOUSE VERSION

(b-1) Specifies that, if the State Energy Conservation Office determines, based on written recommendations from the laboratory, that the latest published edition of the International Residential Code energy efficiency provisions or the latest published edition of the International Energy Conservation Code *will result in residential or commercial energy efficiency and air quality that is equivalent to or better than the energy efficiency and air quality achievable under the editions* adopted under Subsection (a) or (b), the office may by rule adopt the equivalent or more stringent editions and substitute them for the *energy codes* described by Subsection (a) or (b). The rule, if adopted, shall establish an effective date for the new *energy codes* but not earlier than nine months after the date of adoption. The laboratory shall make its recommendations not later than six months after publication of new editions at the end of each three-year code development cycle of the International Residential Code and the International Energy Conservation Code.

(b-2) Requires the State Energy Conservation Office to establish a procedure for persons who have an interest in the adoption of *energy codes* under Subsection (b-1) to have an opportunity to comment on the codes under consideration and to have the commentary considered by the laboratory in developing its recommendations.

CONFERENCE

Same as House version.

Same as House version.

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have an opportunity to comment on the codes under consideration and to have the commentary considered by the laboratory in developing its recommendations.

SECTION 3.02. Amends Section 388.005, Health and Safety Code. Among other provisions, revises the definition of "political subdivision" to exclude a school district.

No equivalent provision.

HOUSE VERSION

Further requires the office to consider persons who have an interest in adoption of those codes to include: (1) commercial and residential builders, architects, and engineers; (2) municipal, county, and other local government authorities; and (3) environmental groups.

SECTION 3.02. Substantially the same as Senate version except amends the section heading, retains a school district in the definition of "political subdivision," and adds to Subsection (d) a provision that an entity that does not attain certain goals and submits a report under this subsection indicating it has already implemented all available measures is exempt from the annual reporting requirement of Subsection (e) if a subsequent report would indicate no change in status. Such an entity may be required to provide notice that it is exempt to the State Energy Conservation Office.

SECTION 3.__. Amends Subtitle C, Title 5, Health and Safety Code, by adding Chapter 392 as follows:
Sec. 392.001. MINIMUM EFFICIENCY STANDARDS FOR CERTAIN APPLIANCES. Not later than September 1, 2008, the comptroller, in consultation with the state energy conservation office, shall adopt rules establishing minimum efficiency standards for each type of new product described by Section 392.002(a). The standards adopted must be the same standards as have

CONFERENCE

SECTION 3.02. Same as House version, except adds Subsection (f) as follows:

(f) This section does not apply to an institution of higher education or a state agency if:

(1) the State Energy Conservation Office determines that, before September 1, 2007, the institution or agency adopted a plan for conserving energy under which the institution or agency has set a percentage goal for reducing electric consumption; and

(2) the institution or agency submits reports on its conservation plan not less than quarterly to the governor, the Legislative Budget Board, and the State Energy Conservation Office.

Same as Senate version.

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been adopted in at least one other state to reduce energy use.

Sec. 392.002. **APPLICABILITY; EXEMPTIONS.** (a) This chapter applies to the following new products sold, offered for sale, or installed in this state:

- (1) bottle-type water dispensers;
 - (2) commercial hot food holding cabinets;
 - (3) compact audio products;
 - (4) DVD players and recorders;
 - (5) metal halide lamp fixtures;
 - (6) portable electric spas;
 - (7) residential pool pumps;
 - (8) single-voltage external AC to DC power supplies;
- and

(9) state-regulated incandescent reflector lamps.

(b) This chapter does not apply to:

- (1) a new product manufactured in this state and sold outside this state;
- (2) a new product manufactured outside this state and sold at wholesale inside this state for final retail sale and installation outside this state; or
- (3) a product installed in a mobile manufactured home at the time of the home's construction.

Sec. 392.003. **PRODUCT COMPLIANCE.** (a) A new product described by Section 392.002(a) may not be sold or offered for sale in this state unless the efficiency of the new product meets or exceeds the applicable efficiency standards prescribed by the rules adopted under this chapter.

(b) On or after the first anniversary of the date the sale

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or offering for sale of a new product becomes subject to an efficiency standard adopted under this chapter, that product may not be installed for compensation in this state unless the efficiency of the product meets or exceeds the applicable efficiency standards prescribed by the rules adopted under this chapter.

Sec. 392.004. **PRODUCT CERTIFICATION.** (a) Except as provided by Subsection (c), the manufacturer of a new product subject to an efficiency standard adopted under this chapter shall certify in writing to the comptroller that the product is in compliance with that standard. The comptroller shall accept as an alternative certification a product's certification to another state with like standards if that state publishes a database of compliant products.

(b) The comptroller shall adopt rules governing the certification of products under this section and shall coordinate certification by this state with the certification programs of other states and federal agencies with similar standards.

(c) Subsection (a) does not apply to a manufacturer of single-voltage external AC to DC power supplies.

Sec. 392.005. **COMPLAINTS.** The comptroller shall investigate a complaint received concerning a violation of this chapter and shall report the results of the investigation to the attorney general.

Sec. 392.006. **ATTORNEY GENERAL ENFORCEMENT.** The attorney general may institute proceedings to enforce this chapter.

Sec. 392.007. **VIOLATIONS AND PENALTIES.** (a)

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The comptroller shall issue a warning to a person for the person's first violation of this chapter.

(b) A person's second and subsequent violations are subject to a civil penalty of not more than \$250.

(c) Each violation constitutes a separate violation, and each day that a violation continues constitutes a separate violation.

Sec. 392.008. RULES FOR IMPLEMENTATION AND ENFORCEMENT. The comptroller may adopt additional rules necessary to ensure the proper implementation and enforcement of this chapter.

No equivalent provision.

SECTION 3.___. (a) Specifies that the efficiency standards prescribed by rules adopted under Chapter 392, Health and Safety Code, as added by this article, apply only to the sale or offer of sale of a new product to which that chapter applies that occurs on or after January 1, 2009.

(b) Provides that, notwithstanding Subsection (a) of this section:

(1) a new residential pool pump that does not meet the efficiency standards adopted under Chapter 392, Health and Safety Code, as added by this article, may be sold in this state through December 31, 2009; and

(2) a new single-voltage external AC to DC power supply made available by a manufacturer directly to a consumer or to a service or repair facility after and separate from the original sale of a product requiring the power supply as a service part or spare part is not

Same as Senate version.

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SECTION 3.03. Amends Subsection (b), Section 44.901, Education Code, to require the board of trustees of a school district to establish a goal to reduce the annual electric consumption by five percent each year for six years, beginning September 1, 2007.

SECTION 3.04. Amends Subsection (d), Section 2155.068, Government Code.

SECTION 3.05. Adds Subchapter F, Chapter 2158, Government Code, to require the commission or another state agency to purchase, if available and cost effective, equipment and appliances for state use that meet or exceed *the federal energy conservation standards under the Energy Policy and Conservation Act (42 U.S.C. Section 6295) or any federal regulations adopted under the federal act* or the federal Energy Star standards designated by the United States Environmental Protection Agency and the United States Department of

HOUSE VERSION

required to meet the standards adopted under Chapter 392, Health and Safety Code, as added by this article, until January 1, 2013.

Amends Section 44.901, Education Code, by amending Subsection (b) and adding Subsection (b-1). Subsection (b) is same as Senate version. Subsection (b-1) provides that, not later than January 30 of each year, the board of trustees of a school district shall report to the State Energy Conservation Office: (1) the electric consumption of the district for the preceding year; and (2) a description of the district's plan for reducing annual electric consumption as required under Subsection (b).

Same as Senate version.

Same as Senate version except omits reference to the federal energy conservation standards under the Energy Policy and Conservation Act (42 U.S.C. Section 6295) or any federal regulations adopted under the federal act.

CONFERENCE

SECTION 3.03. Same as Senate version.

SECTION 3.04. Same as Senate version.

SECTION 3.05. Same as House version.

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Energy.

SECTION 3.06 - SECTION 3.07.

Same as Senate version.

SECTION 3.06 - SECTION 3.07. Same as Senate version.

No equivalent provision.

SECTION __. Adds Section 202.008, Chapter 202, Property Code, as follows:
Sec. 202.008. REGULATION OF SOLAR ENERGY DEVICES. (a) In this section, "solar energy device" has the meaning assigned by Section 171.107, Tax Code.
(b) Except as otherwise provided by this section, a property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing a solar energy device.
(c) A provision that violates Subsection (b) is void.
(d) This section does not prohibit the inclusion or enforcement of a provision in a dedicatory instrument that prohibits a solar energy device that:
(1) threatens the public health or safety;
(2) violates a law;
(3) is located on property owned or maintained by the property owners' association;
(4) is located on property owned in common by the members of the property owners' association;
(5) is located in an area on the property owner's property other than:
(A) on the roof of the home; or
(B) in a fenced yard or patio maintained by the property

Same as Senate version.

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owner; or
(6) is mounted on a device that is taller or more visually obtrusive than is necessary for the solar energy device to operate at not less than 90 percent of its rated efficiency.

No equivalent provision.

SECTION __. Specifies that Section 202.008, Property Code, as added by this article, applies to a dedicatory instrument without regard to whether the dedicatory instrument takes effect or is renewed before, on, or after the effective date of this Act.

Same as Senate version.

No equivalent provision.

SECTION __. Specifies that Chapter 39.905(f), Utilities Code, is reenacted in its entirety and the following sentences shall be added: Funding levels for low-income energy efficiency services as determined by the commission shall be implemented with oversight by the Texas Department of Housing and Community Affairs. The Department shall designate a statewide association of community action agencies to directly receive those funds and shall ensure the timely implementation of weatherization assistance contracts through local provider agencies.

Same as Senate version.

No equivalent provision.

No equivalent provision.

ARTICLE 4. IDLING OF MOTOR VEHICLES

No equivalent provision.

SECTION __. Amends Sections 382.0191(b), (c), and (d), Health and Safety Code.

SECTION 4.01. Same as House version.

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(b) Clarifies that the commission may not prohibit or limit the idling of a motor vehicle when idling is necessary to power a heater or air conditioner while a driver is using the vehicle's sleeper berth for a government-mandated rest period. Specifies that idling is not necessary to power a heater or air conditioner if the vehicle is within two miles of a facility offering external heating and air conditioning connections at a time when those connections are available.

(c) Provides that no driver using the vehicle's sleeper berth may idle the vehicle in a residential area as defined by Section 244.001, Local Government Code, or in a school zone or within 1,000 feet of a hospital or a public school during its hours of operation. An offense under this subsection shall be punishable by a fine not to exceed \$500.

(d) Provides that this section expires September 1, 2009.

No equivalent provision.

**ARTICLE 5. TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY NOTIFICATION
REQUIREMENTS**

Same as House version.

No equivalent provision.

SECTION __.01. Amends Section 382.0516, Health and Safety Code, to require the commission, on receiving an application for a construction permit, an amendment to a construction permit, an operating permit, or an authorization to use a standard permit to send notice of the application to the county judge of the county in

SECTION 5.01. Same as House version.

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which the facility is or will be located and, if the facility is or will be located in a municipality or the extraterritorial jurisdiction of a municipality, to the presiding officer of the municipality's governing body. This notice is in addition to the notice required by Subsection (a), for an application that relates to an existing or proposed concrete batch plant.

No equivalent provision.

SECTION __.02. Specifies that the notice provisions under Section 382.0516, Health and Safety Code, apply only to an application for a permit that is submitted to the Texas Commission on Environmental Quality on or after the effective date of this article.

SECTION 5.02. Same as House version.

No equivalent provision.

SECTION __.03. Effective date for the article.

SECTION 5.03. Same as House version.

No equivalent provision.

No equivalent provision.

ARTICLE 6. ENFORCEMENT ACTIONS BASED ON INFORMATION PROVIDED BY A PERSON.

No equivalent provision.

SECTION __. Adds Subsections (e) and (f), Section 7.0025, Water Code, as follows:

(e) If the commission determines that there are multiple violations based on information it receives from a private individual, only those violations that require initiation of formal enforcement may be included in any proposed enforcement action.

(f) The commission may not include in an enforcement

SECTION 6.01. Adds Section 7.00251, Chapter 7, Water Code, as follows:

Sec. 7.00251 If the commission determines that there are multiple violations based on information it receives as required by Title V of the federal Clean Air Act, (42 U.S.C. Section 7661 et seq.) from a person, as defined in Section 382.003, Health and Safety Code, only those that require initiation of formal enforcement will be included

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action initiated on information received under this section:

- (1) a violation that is not a repeat violation resulting from the same root cause in two consecutive investigations in the most recent five-year period; or
- (2) a violation that has been corrected in the time specified by the commission or for which the facility has not had the time specified by the commission to correct the violation.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION __. Adds Section 39.9051, Chapter 39, Utilities Code, as follows:

Sec. 39.9051. ENERGY EFFICIENCY DEMONSTRATION PROJECTS FOR SOLAR ELECTRIC SYSTEM; GRANT PROGRAM. (a) The

commission by rule shall establish grant programs for:

- (1) a demonstration project for installation of solar electric systems for new residential subdivisions;
- (2) a demonstration project for installation of solar electric systems for new or established affordable housing for persons with low incomes; and
- (3) a demonstration project for installation of solar electric systems for not more than three small businesses.

(b) To qualify for a grant under this section, the solar electric system must be a device that:

in any proposed enforcement action. For all other violations that do not require initiation of formal enforcement, the commission may not include in the enforcement action the following:

- (1) violations that are not a repeat violations due to the same root cause in two consecutive investigations within the most recent five-year period; or
- (2) violations that have been corrected within the time frame specified by the commission or for which the facility has not had the time specified by the commission to correct the violations.

ARTICLE 7. SOLAR ENERGY DEMONSTRATION PROJECT.

SECTION 7.01. Same as House version.

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- (1) generates electricity using solar resources;
- (2) has a generating capacity of not more than 1,000 kilowatts; and
- (3) is installed with a warranty against breakdown or undue degradation for a period of at least five years.
- (c) A demonstration project grant program established under this section must provide for full or partial payment of the cost of equipment and installation for the solar electric systems. The commission shall establish for each grant program a competitive bidding process for grant applicants. The commission shall consider the value of funding demonstration projects in different parts of this state, after considering the demographic and geographic diversity of this state.
- (d) To qualify for a grant under Subsection (a)(1) the applicant:
 - (1) must be a person whose primary business activity is the building of residential housing developments; and
 - (2) must have installed or must be contractually obligated to install qualifying solar electric systems in each residence constructed in a residential subdivision.
- (e) To qualify for a grant under Subsection (a)(2) the applicant must have installed or be contractually obligated to install a qualifying solar electric system for residential real property:
 - (1) appraised in accordance with Section 23.21, Tax Code, as affordable housing property; or
 - (2) subject to a contractual obligation that the property will be appraised in accordance with Section 23.21, Tax Code, as affordable housing property within a reasonable

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time after the grant is received.

(f) To qualify for a grant under Subsection (a)(3), the applicant must be a small business or owner of a small business that meets qualifications adopted by the commission after consideration of federal Small Business Administration standards for qualification for loans from that administration.

(g) The commission shall issue a report to the governor, lieutenant governor, and speaker of the house of representatives not later than December 1 of each even-numbered year summarizing the status of the grant programs established under Subsection (a). The report must include the amount of money granted to each demonstration project and an evaluation of whether the projects demonstrate the economic and ecologic viability of solar electric system installations.

(h) This section expires December 31, 2010.

No equivalent provision.

SECTION __. (a) Specifies that the Public Utility Commission of Texas may not spend money to implement a demonstration project grant program under Section 39.9051, Utilities Code, as added by this article, except, for money described by Subsection (b) of this section that is appropriated to the commission.

(b) Specifies that the Public Utility Commission of Texas may solicit and accepts gifts, grants, and other donations from any source to carry out the demonstration grant program established under Section 39.9051, Utilities Code, as added by this Act.

SECTION 7.02. Same as House version.

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(c) This section expires December 31, 2010.

No equivalent provision.

SECTION __. Adds Section 39.911, Subchapter Z, Chapter 39, Utilities Code, as follows:

Sec. 39.911. INTERCONNECTION OF DISTRIBUTED RENEWABLE GENERATION. (a) In this section:

(1) "Distributed renewable generation" means electric generation with a capacity of not more than 2,000 kilowatts provided by a renewable energy technology, as defined by Section 39.904, that is installed on a retail electric customer's side of the meter.

(2) "Distributed renewable generation owner" means the owner of distributed renewable generation.

(3) "Interconnection" means the right of a distributed renewable generation owner to physically connect distributed renewable generation to an electricity distribution system, and the technical requirements, rules, or processes for the connection.

(b) A transmission and distribution utility or electric utility shall allow interconnection if:

(1) the distributed renewable generation to be interconnected has a five-year warranty against breakdown or undue degradation; and

(2) the rated capacity of the distributed renewable generation does not exceed the transmission and distribution utility or electric utility service capacity.

(c) A customer may request interconnection by filing an application for interconnection with the transmission and

Same as Senate version.

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distribution utility or electric utility. Procedures of a transmission and distribution utility or electric utility for the submission and processing of a customer's application for interconnection shall be consistent with rules adopted by the commission regarding interconnection.

(d) The commission by rule shall establish safety, technical, and performance standards for distributed renewable generation that may be interconnected. In adopting the rules, the commission shall consider standards published by the Underwriters Laboratories, the National Electric Code, the National Electric Safety Code, and the Institute of Electrical and Electronics Engineers.

(e) A transmission and distribution utility, electric utility, or retail electric provider may not require a distributed renewable generation owner whose distributed renewable generation meets the standards established by rule under Subsection (d) to purchase an amount, type, or classification of liability insurance the distributed renewable generation owner would not have in the absence of the distributed renewable generation.

(f) A transmission and distribution utility or electric utility shall make available to a distributed renewable generation owner for purposes of this section metering required for services provided under this section, including separate meters that measure the load and generator output or a single meter capable of measuring in-flow and out-flow at the point of common coupling meter point. The distributed renewable generation owner

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must pay the differential cost of the metering unless the meters are provided at no additional cost. Except as provided by this section, Section 39.107 applies to metering under this section.

(g) A renewable energy credit that is earned by a distributed renewable generation owner through the interconnection of a renewable electric system is the sole property of the distributed renewable generation owner unless the distributed renewable generation owner engages in a transaction to sell or trade the credit under Section 39.904. For electric utilities, the commission shall address the ownership of renewable energy credits associated with power sold to the utility.

(h) An electric utility or retail electric provider may contract with a distributed renewable generation owner so that:

(1) surplus electricity produced by distributed renewable generation is made available for sale to the transmission grid and distribution system; and

(2) the net value of that surplus electricity is credited to the distributed renewable generation owner.

(i) For distributed renewable generation owners in areas in which customer choice has been introduced, the distributed renewable generation owner must sell the owner's surplus electricity produced to the retail electric provider that serves the distributed renewable generation owner and the provider that serves the owner's load which may include, but is not limited to, an agreed value based on the clearing price of energy at the time of day that the electricity is made available to the grid or it may

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5-26-07

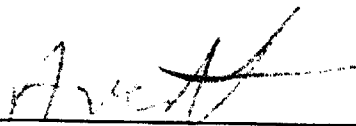
Date

Honorable David Dewhurst
President of the Senate

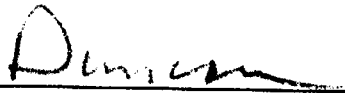
Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

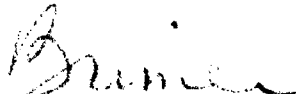
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 12 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



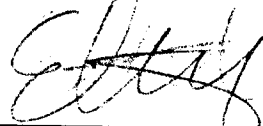
Phil Averitt



Robert Duncan



Kim Brink



Kevin Eltife

Nick Watson

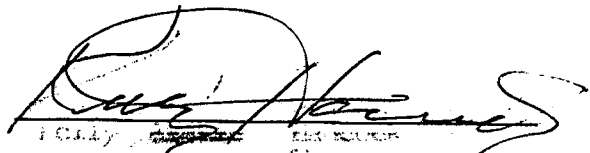
On the part of the Senate



Dennis Bonen



Allan Ritter



Kelly Hargrett



Joe Driver



Larry Taylor

On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.